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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT TACOMA

9 RAFAEL OSEGUERA GODINES,

10 Plaintiff,

11 v.

12 KITSAP COUNTY JAIL *et al.*,

13 Defendants.
14

CASE NO. C09-5215BHS/JRC

REPORT AND
RECOMMENDATION

Noted for November 27, 2009

15 This §1983 Civil Rights matter has been referred to the undersigned Magistrate Judge
16 pursuant to 28 U.S.C. §§ 636(b) (1) (A) and 636(b) (1) (B) and Local Magistrates Judge's Rules
17 MJR 1, MJR 3, and MJR 4.

18 This action was filed April 15, 2009. It has been over 120 days since the filing of the
19 action and no defendants have been served. The court entered an Order Directing Service on
20 April 30, 2009 (Dkt. # 5). The John Doe Kennedy named in the complaint has not accepted
21 service.
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23 On September 2, 2009 the court entered an Order to Show Cause why the action should
24 not be dismissed (Dkt. # 8). That order gave plaintiff until October 2, 2009, to respond. As of
25 November 2, 2009, there has been no response. The court recommends this action be dismissed
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1 for failure to serve and for failure to comply with a court order. The dismissal would be without
2 prejudice.

3 DISCUSSION

4 Fed. R. Civ. P. 4 (m) indicates that if service of a summons and complaint is not made
5 within 120 days of filing the court – on motion or on its own after notice to the plaintiff -- shall
6 dismiss the claim without prejudice unless the plaintiff can show good cause why service was
7 not made within that time. Ignorance of the rules is not good cause. Townsel v. County of
8 Contra Costa, 820 F.2d 319, 320 (9th Cir.1987). A plain reading of the rule would appear to
9 indicate that dismissal of this action is in order. Plaintiff has not provided names of the
10 defendants so service can be made.
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12 Further, the court entered an order to show cause and plaintiff has not complied with that
13 order. Fed. R. Civ. P. 41 (2) (b) allows for involuntary dismissal for failure to follow a court
14 order. Plaintiff was ordered to show cause and he has not done complied.
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16 The court recommends this action be DISMISSED WITHOUT PREJUDICE.

17 Pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b), the parties shall have ten
18 (10) days from service of this Report to file written objections. *See also* Fed. R. Civ. P. 6.
19 Failure to file objections will result in a waiver of those objections for purposes of appeal.
20 Thomas v. Arn, 474 U.S. 140 (1985). Accommodating the time limit imposed by Rule 72(b), the
21 clerk is directed to set the matter for consideration on November 27, 2009, as noted in the
22 caption.
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24 DATED this 2nd day of November

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J. Richard Creatura
United States Magistrate Judge